

AMENDED IN ASSEMBLY AUGUST 20, 2008

AMENDED IN ASSEMBLY AUGUST 11, 2008

AMENDED IN ASSEMBLY AUGUST 7, 2008

AMENDED IN ASSEMBLY JULY 1, 2008

AMENDED IN ASSEMBLY JUNE 12, 2008

AMENDED IN SENATE APRIL 1, 2008

SENATE BILL

No. 1574

**Introduced by Senator Florez
(Coauthor: Senator Ducheny)**

February 22, 2008

An act to add Sections 25292.6 and 25292.7 to the Health and Safety Code, relating to underground storage tanks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1574, as amended, Florez. Underground storage tanks: biodiesel.

(1) Existing law generally regulates the storage of hazardous substances in underground storage tanks and requires underground storage tanks that are used to store hazardous substances to meet certain requirements with regard to the design, construction, testing, and monitoring of the tank system. These requirements are required to be implemented by a local agency, which is required to inspect every underground storage tank annually and determine whether the tank complies with those design and construction standards.

The Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 requires owners and operators of petroleum underground storage tanks to pay a storage fee for each gallon of petroleum placed

in the tank and the fees are required to be deposited in the Underground Storage Tank Cleanup Fund. The State Water Resources Control Board is authorized to expend money from that fund, upon appropriation by the Legislature, to pay claims to aid eligible owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks.

This bill would define the term “biodiesel” and “biodiesel blend,” and would provide that an underground storage tank ~~in use before July 1, 2008, that contains biodiesel or stores a biodiesel blend on or before July 1, 2008,~~ would be deemed to be in compliance with the requirements imposed upon underground storage tanks storing hazardous substances and petroleum underground storage tanks, if the tank meets certain requirements that are imposed upon an underground storage tank containing diesel ~~or biodiesel blend, or if the~~. *The bill would additionally require, if the tank contains a biodiesel blend higher than B5, but not more than B20, that the local agency determines determine that the owner or operator employ employs best management practices operator provides evidence, supplied by the manufacturer, of material compatibility of the underground storage tank system and a warranty by the manufacturer that the system is appropriate for the blend of biodiesel to be stored.* The bill would provide that ~~this exemption the above interim standards~~ would be operative only until ~~the board determines that~~ the Underwriters Laboratories, Inc. has established a certification standard for underground storage tanks that contain ~~biodiesel or a biodiesel blend,~~ or until January 1, 2011, whichever date is sooner. The bill would authorize a local agency that determines an underground storage tank storing ~~biodiesel or a biodiesel blend~~ that is otherwise deemed to be in compliance under the act poses a risk to water quality; to take enforcement action with regard to that underground storage tank.

The bill also would require the board to ~~develop an~~ *provide information on its* Internet Web site to inform operators of underground storage tanks containing ~~biodiesel or a biodiesel blend~~ of the current requirements for storing those fuels *and information related to biodiesel storage.*

This bill would impose a state-mandated local program by imposing new duties upon local agencies related to implementing the requirements imposed by this bill.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) It is the intent of the Legislature, until the
2 adoption of third-party certification standards for underground
3 storage tanks containing ~~biodiesel~~ and biodiesel blends, to provide
4 interim standards for *owners and* operators of underground storage
5 tanks containing biodiesel fuels that contain 20 percent or less by
6 volume of biodiesel.

7 (b) It is not the intent of the Legislature, in enacting this
8 measure, to deem in compliance with any subsequently adopted
9 standards an underground storage tank system that contains
10 ~~biodiesel or a~~ biodiesel blend that is deemed in compliance with
11 the provisions of this measure.

12 SEC. 2. Section 25292.6 is added to the Health and Safety
13 Code, to read:

14 25292.6. (a) For the purposes of this section, the following
15 terms have the following meanings:

16 (1) “Biodiesel” means a fuel comprised of mono-alkyl esters
17 of long chain fatty acids derived from vegetable oils or animal
18 fats, designated B100, that meets the requirements of the American
19 Society for Testing and Materials (ASTM) Standard Specification
20 D-6751, and the registration requirements of the United States
21 Environmental Protection Agency as a fuel and as a fuel additive
22 under the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

23 (2) “Biodiesel blend” means a fuel that contains one percent to
24 99.9 percent biodiesel blended with diesel fuel, as defined in
25 Section 13401 of the Business and Professions Code. For purposes
26 of this section, where a biodiesel blend is designated BX, X
27 represents the percentage of the fuel, by volume, that is biodiesel.

28 (b) Except as provided in subdivisions (d) and (e), an
29 ~~underground storage tank that is in use before July 1, 2008, and~~
30 *underground storage tank* that contains a biodiesel blend of B5 or

less shall be deemed in compliance with this chapter and Chapter 6.75 (commencing with Section 25299.10) if the underground storage tank is in compliance with this chapter and Chapter 6.75 (commencing with Section 25299.10), and the regulations adopted pursuant to those provisions, including, but not limited to, the requirement to make the payments specified in Section 25299.41, in the same manner as those requirements would apply to an underground storage tank that contains diesel. *For purposes of determining compliance with this chapter, the underground storage tank shall be in compliance with the requirements of paragraphs (1) to (6), inclusive, of subdivision (a) of Section 25291 and with either subdivisions (b) to (i), inclusive, of Section 25291 or Section 25290.2.*

(c) ~~(1)~~ Except as provided in subdivisions (d) and (e), an ~~underground storage tank that is in use before July 1, 2008, and~~ underground storage tank that contains ~~biodiesel or~~ a biodiesel blend higher than B5, and up to and including B20, shall be deemed in compliance with this chapter and Chapter 6.75 (commencing with Section 2599.10) if the underground storage tank meets both of the following requirements:

~~(A)~~

~~(1)~~ The underground storage tank is in compliance with this chapter and Chapter 6.75 (commencing with Section 25299.10), and the regulations adopted pursuant to those provisions, including, but not limited to, the requirement to make the payments specified in Section 25299.41, in the same manner as those requirements would apply to an underground storage tank that contains diesel.

~~(B) The local agency determines that the underground storage~~

~~(2) The local agency determines that the owner or operator of the tank employs best management practices, including, but not limited to, using a double-walled tank constructed pursuant to Section 25290.1 or the operator is able to provide evidence, supplied by the to, one of the following practices:~~

~~(A) Using an underground storage tank constructed pursuant to Section 25290.1.~~

~~(B) Providing evidence, supplied by the manufacturer of the underground storage tank, of material compatibility of the underground storage tank system and a warranty by the manufacturer that the system is appropriate for the blend of biodiesel to be stored for, at a minimum, the time period when the~~

1 *interim standard established pursuant to this subdivision is*
2 *operative. If an owner or operator chooses to provide evidence of*
3 *material compatibility pursuant to this subparagraph, the owner*
4 *or operator shall obtain a level of financial responsibility, which*
5 *shall be equal to the amount that is twice the amount that the owner*
6 *or operator would otherwise be required to obtain pursuant to*
7 *subdivision (a) of Section 25299.32..*

8 ~~(2) This subdivision does not prohibit an operator of an~~
9 ~~underground storage tank containing a biodiesel blend higher than~~
10 ~~B5, and up to and including B20, from transferring, after July 1,~~
11 ~~2008, the biodiesel blend into an underground storage tank that~~
12 ~~complies with the requirements of paragraph (2).~~

13 (d) ~~The exemption~~ *interim standard* provided in subdivisions
14 (b) and (c) for an underground storage tank that contains biodiesel
15 ~~or~~ a biodiesel blend shall become inoperative on and after the
16 following dates, whichever date is sooner:

17 (1) The effective date when the ~~board determines that~~
18 Underwriters Laboratories, Inc. ~~has established~~ *establishes* a
19 certification standard for underground storage tanks that contain
20 ~~biodiesel or~~ a biodiesel blend.

21 (2) January 1, 2011.

22 (e) If a local agency determines that an underground storage
23 tank storing ~~biodiesel or~~ a biodiesel blend that is otherwise in
24 compliance with the requirements of subdivisions (b) and (c) poses
25 a risk to water quality, the local agency may take enforcement
26 action with regard to that underground storage tank pursuant to
27 this chapter.

28 (f) *This section shall apply only to an underground storage tank*
29 *that stores a biodiesel blend on or before July 1, 2008.*

30 (g) *This section does not prohibit the owner or operator of an*
31 *underground storage tank that contains a biodiesel blend up to,*
32 *and including, B20 from transferring, at any time during the time*
33 *period when the interim standard established by this section is*
34 *operative, the biodiesel blend into an underground storage tank*
35 *that complies with or exceeds the interim standards established*
36 *by this section.*

37 SEC. 3. Section 25292.7 is added to the Health and Safety
38 Code, to read:

39 ~~25292.7. The board shall develop, with existing funds, an~~
40 ~~Internet Web site to inform operators of underground storage tanks~~

1 containing biodiesel, as defined in paragraph (1) of subdivision (a)
2 of Section 25292.6, or biodiesel blend, as defined in paragraph
3 25292.7. *The board shall develop information on its existing*
4 *Internet Web site, to inform operators and owners of underground*
5 *storage tanks that contain biodiesel blend, as defined in paragraph*
6 (2) of subdivision (a) of Section 25292.6, of the current
7 requirements for storing those fuels *and shall include a statement*
8 *about storing a biodiesel blend in an underground storage tank*
9 *that is not certified by the Underwriters Laboratories, Inc..*

10 SEC. 4. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 a local agency or school district has the authority to levy service
13 charges, fees, or assessments sufficient to pay for the program or
14 level of service mandated by this act, within the meaning of Section
15 17556 of the Government Code.